

IRISH LAND ACT, 1903.
(Investment of Funds.)

RETURN to an Order of The Honourable The House of Commons,
dated 7th May, 1906.—*for*,

A COPY OF STATEMENT issued by a special Committee of the Dublin Stock Exchange with reference to the Investment of Funds under the control of the Supreme Court.



(*Sir William Bull.*)

Ordered, by The House of Commons, to be Printed,
15th May, 1906.

DUBLIN :
PRINTED FOR HIS MAJESTY'S STATIONERY OFFICE,
BY CAHILL & CO., 35, 36 & 37 GREAT STRAND STREET

And to be purchased, either directly or through any Bookseller, from
E. Passmore, 116 Grafton Street, Dublin; or
Watts and Sons, Ltd., Fetter Lane, E.C., and 82 Abingdon Street, Westminster, S. W.; or
Oliver and Bown, Edinburgh.

1906.

STATEMENT OF CASE.

DUBLIN STOCK EXCHANGE

AND INVESTMENTS UNDER IRISH LAND ACT, 1903.

Introductory.

For some years past depression in business has prevailed on the Dublin Stock Exchange, relieved until 1903-4 by the anticipation of a revival, as a result of investment business under the Land Purchase Act, 1903. To some extent that expectation has been realised, but about eighteen months ago it became evident that a very serious state of affairs had arisen under the Land Commission Rules governing investment of purchase moneys, which had been lodged in the Bank of Ireland, and for sundry reasons were not available for "distribution" to the parties entitled thereto. In the case practically of every sale of land under the Act this interval occurs, and the expression "pending distribution" will be understood to refer to it and to investments made during it.

What particular class of investments under the Act we are concerned with in the present Statement

The Act permits (Sec. 24 (4)) investment of such moneys in Trustee Stocks, and Order IX., Sec. 2 of Rules published December, 1903, by the Rule making authority enjoins investment in Consols unless the Vendor apply to the contrary within fourteen days. An alternative right (usually discouraged) to have the money placed on deposit in the Bank of Ireland has been at times exercised by Vendors. In other words, the Land Commission will take a direction as to investment in Trustee Stocks, other than Consols, and failing such direction will invest in Consols.

Misapprehension as to temporary nature of investments "pending distribution."

Now the above investments are evidently regarded by the Act and by the "rule making authority" as temporary, and it has been contended, with some show of reason, that the parties entitled to be paid eventually in cash are, when that occurs, at liberty to employ their own Brokers. No doubt this is so, but investors naturally try to make one job of it at first, and so save the cost of re-sale of their "temporary" and fresh purchase of their "permanent" stocks, and they nearly always succeed.

Statement of our criticism

The Rules issued by the Land Commission, which is the "rule making authority," require that all investments "pending distribution" shall be made by the Chancery Brokers appointed by the Lord Chancellor, and many instances have occurred, and continue to occur,

in which Vendors or their solicitors, having consulted their own Brokers under the idea that they were permitted to employ them, have been compelled to look on while their business has been forcibly diverted to the Chancery Brokers, and executed under the many disadvantages of the existing system. The essential and personal relation of Broker and client has been absent, and dissatisfaction, and in some cases serious loss, to the latter have ensued. This Committee has been in contact with instances of this, but their chief concern is with the grievances of the excluded Broker, who is in this manner disabled from performing the business for which he has taken out his licence, rented his offices, and paid his staff.

The enormous volume of business under the Act of 1903, and the serious displacement of that business has forced the majority of the body to act in self-defence.

The right of the rule making authority to make rules is given in the Land Act of 1896, Sec. 28. The wording of the Section is general, and contains no specific reference to the Stock Exchange. It resembles in this regard the usual clauses in other Acts of Parliament which enable the Executive to carry out necessary details. Its full significance, as applicable to the employment of Stock Brokers, might easily be missed, and probably was missed by the framers of the Act of 1903, which "incorporated previous Land Acts," but did not otherwise refer to the Stock Exchange, though the interests of other professions—such as solicitors—were protected. We do not believe that the Government consciously sanctioned the handing over to a minority, or for the matter of that to a majority, of the members of a public profession in a poor country like Ireland, of a monopoly involving 100 millions of money derived from its chief source of wealth. We strongly insist, therefore, upon our right in the last resort to a Government measure of relief.

Root of mischief is to be found in legislation of 18 years back

Which did not contemplate conditions now prevailing, and resulting from the Act of 1903

The rule we desire formulated is as follows :—

Remedy proposed

"That the Vendor should have the privilege of nominating a Broker to transact the necessary business, and that to this end a rule should be formulated imposing upon the solicitor for the Vendor the duty of communicating to the proper officer of the Land Commission, at the proper time, the name of such Broker. The same safeguards to apply to such Broker as now apply to the six Court Brokers."

This is not inconsistent with the continued existence of Chancery Brokers who would (a) still perform the Chancery business, which is all that the Lord Chancellor is competent to appoint them to do.

Not directed against Chancery Brokers.

Further they can (b) still be employed as Land Commission Brokers to do such land business as may not be specially covered by the above

proposed rule (and that would be considerable), and they can also (c) perform the business which they would get under the operation of that rule in common with the rest of the body. Freedom of contract is what we demand, and no increase in number of the Court Brokers in the least relieves the injustice suffered by those outside the ring.

Two possible
objections.

So far as we can ascertain, two objections may possibly be taken to the proposed rule, namely—(1) complication in the accounts of the Land Commission arising from number of Brokers employed; (2) inadequate security.

Answered (1).

We hardly think the first can be pressed in the face of the serious existing inequity, and in any case the Lord Chancellor has cut the ground from beneath it by his recent appointments of additional Chancery Brokers. If ten or twelve firms can be employed, why not any firm? Why should the practice with regard to Brokers differ in this respect from that prevailing with regard to Solicitors?

(2).

The question of security is a delicate one to handle, for it is obviously much easier for the Lord Chancellor to say in general terms that he prefers to employ certain firms selected by himself than it is for us to criticise that statement and yet avoid specific details.

By the Land Commission Rules no money is paid out until the *certificate* of the stock, purchased by its orders, is received.

Equal security
under new rule.

The risk run by the Land Commission is, therefore, about equal to that of exchanging sovereigns for bank notes, and would be unaffected by the proposed rule, and it is for the Lord Chancellor and for the Land Commission a question of merely academic interest how the credit it implies is arranged. It is certain that any Broker undertaking business of the kind can easily obtain the necessary accommodation. It may reasonably be assumed also that Vendors and their solicitors would be guided in their choice of Brokers by considerations of financial stability and efficiency, of which their more intimate connection with commerce and finance should render them at least as competent judges as the Lord Chancellor.

Discretion
exercised by
Solicitors.

The contention of inadequate security is, from every point of view, the merest bogey, and it is most unfairly employed, if, indeed, it is urged at all; but, as is commonly known, we are driven back upon our imagination in the search alike for possible objections to our proposed rule, and for the arguments by which we may suppose the present system is justified.

Scrutiny of the Land
Commission.

Up to the present we have been given no opportunity of discussing either with the rule making authority.

APPENDIX No. 1.

Memorandum of steps taken up to 27th November, 1905.

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| 1 November, 1904 | Memorial of 1 Dec., 1904,
Addressed to G. Wyndham. |
| 13 January, 1905 | Letter acknowledging.
Signed J. B. Dougherty, Sec., Lord Lieutenant. |
| 17 January, 1905 | Letter replying to Memorial received from Sir J. H. Franks, Land Commission, |
| 30 January, 1905 | Further letter from Sir J. B. Dougherty answering our enquiry as to rule making authority. |
| 6 March, 1905 | Letter written Sir J. B. Dougherty enquiring "who is or are the rule making authority." |
| 11 March, 1905 | Letter in reply. |
| 6 April, 1905 | Letter laying correspondence before Chief Sec., and asking for interview. |
| 12 May, 1905 | Further letter to same purpose. |
| 24 May, 1905 | Interview with Chief Sec. in London. |
| 8 June, 1905 | Resolution passed by Incorporated Law Society.
Further correspondence. |
| 17 August, 1905 | Letter formulating remedy and signed extensively sent to Chief Sec. |
| 20/22 Nov., 1905 | Appointment of four additional Court Brokers. |
| 21 November, 1905 | Resolutions by room passed unanimously, several Court Brokers being present. |

APPENDIX No. 2.

*Copy of Resolution passed by the Incorporated Law Society,
dated 8th June, 1905.*

"The Council of the Incorporated Law Society of Ireland is of opinion that the existing practice of investing the proceeds of lands sold under the Land Act, 1903, through the six Chancery Stock Brokers is inimical to the interests of clients, and causes unnecessary difficulties and delays. That Vendors under the Act should be at liberty to have their moneys invested by any duly licensed Government Stock Broker, and that Rule L, Order XXII, of the Irish Land Commission Rules of the 16th March, 1897, should be altered to give effect to this Resolution."

APPENDIX No. 3.

Copy of Resolutions unanimously passed by the Stock Exchange,
21st November, 1905.

RESOLUTION No. 1.

"That this Society protests against the investment business
"under the Land Act of 1903, being entrusted to the Chancery Brokers
"only, to the exclusion of the rest of the Society, and adopts the Memorial
"addressed to the Chief Secretary for Ireland on the Subject, dated
"December, 1904, and the suggestion conveyed to him under date 17th
"August, 1905, which reads as follows:—'The remedy we suggest is
"that the Vendor should have the privilege of nominating a Broker to
"transact the necessary business, and that to this end a rule should be
"formulated imposing upon the solicitor for the Vendor the duty of
"communicating to the proper officer of the Land Commission at the
"proper time the name of such Broker. The same safeguards to apply
"to such Broker as now apply to the six Court Brokers.'"

RESOLUTION No. 2.

"That this Society, having heard of the further appointment
"made by the Lord Chancellor to the position of Brokers to the Court
"of Chancery, desires to record in the most emphatic manner its opinion
"that the extension to others of the privileges hitherto enjoyed by six
"Brokers is in no way an answer to their legitimate grievance, as set
"forth in Resolution No. 1."

RESOLUTION No. 3.

"That immediate steps be taken to ascertain the proper legal
"procedure necessary to reform the existing system, under which broker-
"age arising under the Land Act, 1903, has been added to the benefits
"already derived by a small section enjoying the advantages of the
"business of the Court of Chancery."

RESOLUTION No. 4.

"That a Guarantee Fund be opened to meet any necessary
"expenses, and that a Committee of four (with power to add to their
"number) be appointed, with full power to take any steps that may
"seem to them necessary."

RESOLUTION No. 5.

"That copies of these Resolutions be forwarded to the Lord
"Lieutenant, Chief Secretary for Ireland, the Secretary of the Land
"Commission, and to the Press."

APPENDIX No. 4.

Copy of Resolution passed by the Dublin Chamber of Commerce,
dated 4th December, 1905.

"That the Council of this Chamber approves of the resolutions
"passed by the Dublin Stock Exchange on 21st November, dealing
"with the investment of the funds under the Land Act of 1903, and
"desire to record their protest against such business being confined to
"the Court Brokers, to the exclusion of any other Broker whom a
"Vendor under the Act may desire to nominate to invest his money
"pending distribution."

IRISH LAND ACT, 1903.
(Investment of Funds.)

RETURN to an Order of The Honourable The House
of Commons, dated 7th May, 1906.

(See Witness Book.)



Ordered, by The House of Commons, to be Printed.

ISA. MAY, 1906.

[Price 1d.]